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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,262	04/27/2005	John E. Walls	VMACosUSNP	7343
39208	7590	10/17/2008		
CR MILES, P.C. CRAIG R. MILES 405 MASON COURT, SUITE 119 FORT COLLINS, CO 80524			EXAMINER NGUYEN, TRI V	
			ART UNIT	PAPER NUMBER
			1796	
			MAIL DATE	DELIVERY MODE
			10/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,262	Applicant(s) WALLS ET AL.	
	Examiner TRI V. NGUYEN	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/04/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Upon entry of the amendment filed on 06/16/08, Claims 28-30 are amended; Claims 31-35 are added and Claims 1-27 are cancelled. The currently pending claims considered below are Claims 28-35.

Upon review of applicants' remarks and amendments, the rejections under 112(2) and 102/103 are withdrawn.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 28-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacDonald et al. in view of Rothan (FR 2717184 - cited in IDS dated 12/07/07).

MacDonald et al. disclose a method washing hands with a soap composition that includes polyvinyl alcohol, borax citric acid and a dye (col 1, line 65 to col col 2, line 30). MacDonald further teach that the dye is kept separate until the mixing occurs and a change in color is observed - e.g. via microencapsulation (col 3, lines 27-38). However, MacDonald et al. do not explicitly disclose the features of rupture of the envelope containing the dye, the time dependence parameter and a fragrance. In an analogous art, Rothan teaches that is well known to use a liquid soap win which a colorant is encapsulated into microsphere such as cellulose acetylphatalate that ruptured due to an external parameter as a time indicia (page 1, lines 12-14 and 49-57). Though Rothan does not specifically indicate that the envelope is water soluble, it is noted that the cellulose acetylphatalate is an homologue to applicants' cellulose

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capsule (see page 13 , line 5 of the specification) and it would be expected to have the similar properties - the Patent Office is not equipped to perform laboratory testing. Furthermore, it would have been obvious to one ordinary skill in the art to have substituted the cellulose with its homologues because characteristics normally possessed by members of homologous series are principally the *same (e.g. water soluble)*, and vary but gradually from member to member; chemists knowing properties of one member of series would in general know what to expect in adjacent member, see *In re Henze*, 85 USPQ 261. Because the references teach the similar methods and elements, the claims would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Furthermore, the claims would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan. In particular, it would have been well within the purview of skill artisan to implement the feature of microsphere encapsulating a dye to gain the benefits of a time dependence release mechanism that has sensorial perception.

4. Claims 28-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacDonald et al. in view of Rothan (FR 2717184)and Rau (US 6310014).

MacDonald et al. disclose a method washing hands with a soap composition that includes polyvinyl alcohol, borax citric acid and a dye (col 1, line 65 to col col 2, line 30). MacDonald further teach that the dye is kept separate until the mixing occurs and a change in color is observed - e.g. via microencapsulation (col 3, lines 27-38). However, MacDonald et al. do not explicitly disclose the features of rupture of the envelope containing the dye, the time dependence parameter and a fragrance. In an analogous art, Rothan teaches that is well known to use a liquid soap win which a colorant is encapsulated into microsphere such as

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cellulose acetylphthalate that ruptured due to an external parameter as time indicia (page 1, lines 12-14 and 49-57) and Rau disclose the features of water soluble envelopes and fragrance as a release agent (col 2, line 54 to col 3, line 4 and col 4, lines 12-14). Because the references teach the similar methods and elements, the claims would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Furthermore, the claims would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan. In particular, it would have been well within the purview of skill artisan to implement the feature of a water soluble envelope with fragrance and dye ingredients to gain the benefits of a time dependence release mechanism that has a pleasant sensorial perception.

Response to Arguments

5. Applicant's arguments with respect to claims 28-30 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that the MacDonald teaches the features of dye release agent such as via microencapsulation and features of non-aqueous liquid component.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRI V. NGUYEN whose telephone number is (571)272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. V. N./
Examiner, Art Unit 1796
October 16, 2008

/Lorna M Douyon/
Primary Examiner, Art Unit 1796